



**ASSEMBLY AMENDMENT 1,  
TO 1997 ASSEMBLY BILL 455**

October 22, 1997 – Offered by Representative GOETSCH.

1           At the locations indicated, amend the bill as follows:

2           **1.** Page 9, line 18: after that line insert:

3           “**SECTION 17g.** 938.245 (2t) (i) of the statutes is created to read:

4           938.245 **(2t)** (i) 1. If a victim of the act for which the deferred prosecution  
5           agreement is entered into is paid an award under ch. 949 for any loss arising out of  
6           the act, the state is subrogated to the rights of the victim to any restitution required  
7           by the court. The rights of the state are subordinate to the claims of victims who have  
8           suffered a loss arising out of the offenses or any transaction which is part of the same  
9           continuous scheme of delinquent activity.

10          2. When restitution is ordered, the court shall inquire to determine if an award  
11          has been made under ch. 949 and if the department of justice is subrogated to the  
12          cause of action under s. 949.15. If the restitution ordered is less than or equal to the  
13          award under ch. 949, the restitution shall be paid only to the general fund. If the

1 restitution ordered is greater than the award under ch. 949, the general fund shall  
2 receive an amount equal to the award under ch. 949 and the balance shall be paid  
3 to the victim.”.

4 **2.** Page 13, line 2: after that line insert:

5 “**SECTION 26g.** 938.32 (1t) (i) of the statutes is created to read:

6 938.32 **(1t)** (i) 1. If a victim of the delinquent act is paid an award under ch.  
7 949 for any loss arising out of the delinquent act, the state is subrogated to the rights  
8 of the victim to any restitution required by the court. The rights of the state are  
9 subordinate to the claims of victims who have suffered a loss arising out of the  
10 offenses or any transaction which is part of the same continuous scheme of  
11 delinquent activity.

12 2. When restitution is ordered, the court shall inquire to determine if an award  
13 has been made under ch. 949 and if the department of justice is subrogated to the  
14 cause of action under s. 949.15. If the restitution ordered is less than or equal to the  
15 award under ch. 949, the restitution shall be paid only to the general fund. If the  
16 restitution ordered is greater than the award under ch. 949, the general fund shall  
17 receive an amount equal to the award under ch. 949 and the balance shall be paid  
18 to the victim.”.

19 **3.** Page 15, line 21: after that line insert:

20 “**SECTION 32g.** 938.34 (5) (i) of the statutes is created to read:

21 938.34 **(5)** (i) 1. If a victim of the delinquent act is paid an award under ch. 949  
22 for any loss arising out of the delinquent act, the state is subrogated to the rights of  
23 the victim to any restitution required by the court. The rights of the state are  
24 subordinate to the claims of victims who have suffered a loss arising out of the

1 offenses or any transaction which is part of the same continuous scheme of  
2 delinquent activity.

3 2. When restitution is ordered, the court shall inquire to determine if an award  
4 has been made under ch. 949 and if the department of justice is subrogated to the  
5 cause of action under s. 949.15. If the restitution ordered is less than or equal to the  
6 award under ch. 949, the restitution shall be paid only to the general fund. If the  
7 restitution ordered is greater than the award under ch. 949, the general fund shall  
8 receive an amount equal to the award under ch. 949 and the balance shall be paid  
9 to the victim.”.

10 **4.** Page 19, line 2: after that line insert:

11 “**SECTION 40m.** 949.15 (1) of the statutes is amended to read:

12 949.15 (1) Whenever the department orders the payment of an award under  
13 this chapter as a result of the occurrence of an event that creates a cause of action  
14 on the part of a claimant against any person, the department is subrogated to the  
15 rights of the claimant and may bring an action against the person for the amount of  
16 the damages sustained by the claimant. If an amount greater than that paid under  
17 the award order is recovered and collected in any such action, the department shall  
18 pay the balance to the claimant. If the person responsible for the injury or death has  
19 previously made restitution payments to the general fund under s. 938.245, 938.32,  
20 938.34 or 973.20, any judgment obtained by the department under this section shall  
21 be reduced by the amount of the restitution payments to the general fund.

22 **SECTION 40p.** 949.165 (7) of the statutes is amended to read:

23 949.165 (7) THIRD PRIORITY PAYMENTS; LEGAL FEES AND RESTITUTION. The  
24 department shall make payments from an escrow account for any governmental

entity for the reimbursement for or recoupment of the costs of legal representation of the person charged with the serious crime or for any unpaid restitution under s. 938.245, 938.32, 938.34 or 973.20. The governmental entity shall file a claim for the applicable amount with the department.”.

**(END)**